

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

NEXTGEAR CAPITAL, INC. AND  
AUTOMOTIVE FINANCE  
CORPORATION,

Plaintiffs,

v.

DRUIEN, INC. D/B/A LAWTON AUTO  
AUCTION A/K/A LAWTON CACHE  
AUTO AUCTION, LISA DRUIEN,  
MICHAEL VERNON GARRISON D/B/A  
ROCK HILL USED CARS, AND  
AUSTIN MICHAEL GARRISON A/K/A  
MIKE GARRISON D/B/A AUSTIN  
FINANCIAL SERVICES,

Defendants.

Civil Action No. 4:20-CV-959-BJ

**PLAINTIFFS' MOTION TO DISMISS AUSTIN MICHAEL GARRISON A/K/A MIKE  
GARRISON D/B/A AUSTIN FINANCIAL SERVICES**

TO THE HONORABLE JUDGE OF SAID COURT:

Now come Plaintiffs, NextGear Capital, Inc. ("NextGear") and Automotive Finance Corporation ("AFC") and collectively "Plaintiffs," and files this their *Motion to Dismiss Austin Michael Garrison a/k/a Mike Garrison d/b/a Austin Financial Services* ("A. Garrison") (the "Motion") and would respectfully show the Court the following:

**I. BACKGROUND**

1. On August 24, 2020, Plaintiffs filed their Complaint against Defendants, Druien, Inc. d/b/a Lawton Auto Auction a/k/a Lawton Cache Auto Auction, Lisa Druien, Michael Vernon Garrison d/b/a Rock Hill Used Cars ("M. Garrison"), and Austin Michael Garrison a/k/a Mike Garrison d/b/a Austin Financial Services ("A. Garrison") (collectively, the "Parties"), for breach of contract, among other various causes of action.

2. On September 21, 2020, Defendants M. Garrison and A. Garrison filed their Original Answer to the Complaint [DN 5].

3. On September 21, 2020, the Court ordered the Plaintiffs to file an amended complaint on or before October 12, 2020 [DN 6].

4. On October 7, 2020, Defendants Druien, Inc. d/b/a Lawton Auto Auction a/k/a Lawton Cache Auto Auction and Lisa Druien filed their Original Answer to the Complaint [DN 12].

5. On October 12, 2020, Plaintiffs filed their First Amended Complaint against the Parties.

6. On October 27, 2020, this case was reassigned to the docket of United States magistrate Judge Jeffrey L. Cureton [DN 17].

7. On October 28, 2020, the Order for Revised Joint Status Report was entered by the Court [DN 18]. The Plaintiffs' filed the Joint Status Report on November 13, 2020 [DN 22].

8. On November 24, 2020, a Scheduling Order was entered in this case [DN 23].

9. Through informal discovery, NextGear has obtained documents and discovered facts that render its breach of contract claim against A. Garrison moot. Other than NextGear's breach of contract claim, Plaintiffs have not alleged any other causes of action against A. Garrison.

10. Plaintiffs now wish to dismiss without prejudice Defendant Austin Michael Garrison a/k/a Mike Garrison d/b/a Austin Financial Services only. The remaining defendants, Druien, Inc. d/b/a Lawton Auto Auction a/k/a Lawton Cache Auto Auction, Lisa Druien, Michael Vernon Garrison d/b/a Rock Hill Used Cars, are not prejudiced by defendant A. Garrison being dismissed from this adversary proceeding.

11. The remaining defendants from which Plaintiffs seek recovery in the above-styled adversary proceeding are Druien, Inc. d/b/a Lawton Auto Auction a/k/a Lawton Cache Auto Auction, Lisa Druien, and Michael Vernon Garrison d/b/a Rock Hill Used Cars.

## **II. PRAYER FOR RELIEF**

Accordingly, Plaintiffs pray that the Court grant this Motion to Dismiss and that defendant Austin Michael Garrison a/k/a Mike Garrison d/b/a Austin Financial Services be dismissed from this adversary proceeding.

Dated: February 10, 2021.

**Respectfully submitted,**

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/s/ Christopher V. Arisco  
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*Attorneys for NextGear and AFC*

**CERTIFICATE OF CONFERENCE**

I hereby certify that on February 10, 2021, I placed a telephone call with defendant *pro se* A. Garrison regarding the relief sought in this Motion. A. Garrison did not answer the phone, and the voice mailbox was full so I could not leave a message. However, per previous e-mail correspondence, A. Garrison indicated he wanted the breach of contract claim against him dismissed, which is consistent with the relief sought in this Motion. I also attempted to contact M. Garrison by phone, but was unable to get in touch with him.

In addition, on February 10, 2021, I placed a phone call to Joseph M. Vacek, of Bailey & Galyen, counsel for the remaining Defendants Druien, Inc. d/b/a Lawton Auto Auction a/k/a Lawton Cache Auto Auction and Lisa Druien. The individual answering the phone for Bailey & Galyen advised that Mr. Vacek no longer works as an attorney at Bailey & Galyen, and they would forward my contact information to another attorney who is handling this matter. However, as of the time of filing this Motion, I have not received a response from counsel for Druien, Inc. or Lisa Druien.

/s/ Christopher V. Arisco  
Christopher V. Arisco

**CERTIFICATE OF SERVICE**

This is to certify that on February 10, 2021, a true and correct copy of the foregoing Motion to Dismiss has been forwarded to defendant M. Garrison, *pro se*, at 549 I-30 E., Sulphur Springs, Texas 75482, defendant A. Garrison, *pro se*, at 4658 I30 E., Sulphur Springs, Texas 75482, and Druien, Inc. d/b/a Lawton Auto Auction a/k/a Lawton Cache Auto Auction and Lisa Druien, by and through their counsel of record, Joseph M. Vacek, of Bailey & Galyen at 1300 Summit Avenue, Suite 650, Fort Worth, Texas 76102, via certified mail, return receipt requested, and e-mail at [jvacek@galyen.com](mailto:jvacek@galyen.com).

/s/ Christopher V. Arisco  
Christopher V. Arisco